

**Executive Summary – Enforcement Matter – Case No. 46852**  
**W & W Fiberglass Tank Company**  
**RN102004314**  
**Docket No. 2013-0968-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

W & W Fiberglass Tank, 116 South Price Road, Pampa, Gray County

**Type of Operation:**

Fiberglass tank manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 4, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$74,550

**Amount Deferred for Expedited Settlement:** \$14,910

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$29,820

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$29,820

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 22, 2013

**Date(s) of NOE(s):** April 23, 2013

**Executive Summary – Enforcement Matter – Case No. 46852**  
**W & W Fiberglass Tank Company**  
**RN102004314**  
**Docket No. 2013-0968-AIR-E**

***Violation Information***

1. Failed to submit a renewal application for New Source Review ("NSR") Permit No. 47294 at least six months prior to the expiration date. Specifically, NSR Permit No. 47294 expired on June 6, 2012 and the Plant continued to operate [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
2. Failed to comply with the annual allowable volatile organic compound ("VOC") emissions rate. Specifically, Respondent exceeded the allowable annual VOC emissions rate of 43.75 tons per year based on a rolling 12-month period, from November 2010 through May 2012, resulting in the unauthorized release of 0.96 ton of VOC [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O2448, Special Terms and Conditions No. 4, and NSR Permit No. 47294, Special Conditions No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent submitted a NSR permit application that will include an increase in the allowable annual VOC emissions rates for the Plant on August 30, 2012.

**Technical Requirements:**

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:
  - a. Immediately, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 47294;
  - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application submitted on August 30, 2012, within 30 days after the date of such requests, or by any other deadline specified in writing; and
  - c. Within 180 days, submit written certification that either authorization to operate the sources of air emissions at the Plant has been obtained or that operation has ceased until such time that appropriate authorization has been obtained.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A

**Executive Summary – Enforcement Matter – Case No. 46852**  
**W & W Fiberglass Tank Company**  
**RN102004314**  
**Docket No. 2013-0968-AIR-E**

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jessica Schildwachter, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2617; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Judd Wilson, President, W & W Fiberglass Tank Company, 100 North Price Road, Pampa, Texas 79065

**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2013-0968-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>W &amp; W Fiberglass Tank Company</b>
<b>Penalty Amount:</b>	<b>Fifty-Nine Thousand Six Hundred Forty Dollars (\$59,640)</b>
<b>SEP Amount:</b>	<b>Twenty-Nine Thousand Eight Hundred Twenty Dollars (\$29,820)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D") - Clean School Buses</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 211 - Amarillo - Lubbock</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

Respondent shall contribute to the Third-Party Administrator pursuant to the agreement between the Third-Party Administrator and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the Third-Party Administrator as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides reduction catalyst technology in combination with diesel

W & W Fiberglass Tank Company  
Agreed Order - Attachment A

particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which was phased between 2007 and 2010.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Administrator. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues Section  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES** Assigned **29-Apr-2013**  
PCW **31-Jul-2013** Screening **1-May-2013** EPA Due **17-Jan-2014**

## RESPONDENT/FACILITY INFORMATION

Respondent **W & W Fiberglass Tank Company**  
Reg. Ent. Ref. No. **RN102004314**  
Facility/Site Region **1-Amarillo** Major/Minor Source **Major**

## CASE INFORMATION

Enf./Case ID No. **46852** No. of Violations **2**  
Docket No. **2013-0968-AIR-E** Order Type **1660**  
Media Program(s) **Air** Government/Non-Profit **No**  
Multi-Media  Enf. Coordinator **Jessica Schildwachter**  
EC's Team **Enforcement Team 5**  
Admin. Penalty \$ Limit Minimum **\$0** Maximum **\$25,000**

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$52,500**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **42.0%** Enhancement Subtotals 2, 3, & 7 **\$22,050**

Notes Enhancement for one NOV with dissimilar violations and two orders with denial of liability.

**Culpability** **No** **0.0%** Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 **\$0**

**Economic Benefit** **0.0%** Enhancement\* Subtotal 6 **\$0**

Total EB Amounts **\$1,033**  
Approx. Cost of Compliance **\$10,000**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$74,550**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$74,550**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$74,550**

**DEFERRAL** **20.0%** Reduction Adjustment **-\$14,910**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$59,640**

Screening Date 1-May-2013

Docket No. 2013-0968-AIR-E

PCW

Respondent W &amp; W Fiberglass Tank Company

Policy Revision 3 (September 2011)

Case ID No. 46852

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102004314

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

**Compliance History Worksheet**>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 42%>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%>> **Compliance History Summary****Compliance  
History  
Notes**

Enhancement for one NOV with dissimilar violations and two orders with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 42%>> **Final Compliance History Adjustment****Final Adjustment Percentage \*capped at 100%** 42%

Screening Date 1-May-2013

Docket No. 2013-0968-AIR-E

PCW

Respondent W &amp; W Fiberglass Tank Company

Policy Revision 3 (September 2011)

Case ID No. 46852

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102004314

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to submit a renewal application for New Source Review ("NSR") Permit No. 47294 at least six months prior to the expiration date. Specifically, NSR Permit No. 47294 expired on June 6, 2012 and the Plant continued to operate.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 11 329 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$41,250

Eleven monthly events are recommended from the June 6, 2012 expiration date to the May 1, 2013 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$41,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,033

Violation Final Penalty Total \$58,575

This violation Final Assessed Penalty (adjusted for limits) \$58,575

# Economic Benefit Worksheet

Respondent W & W Fiberglass Tank Company

Case ID No. 46852

Reg. Ent. Reference No. RN102004314

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	6-Jun-2012	30-Jun-2014	2.07	\$1,033	n/a	\$1,033
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a new permit that includes an increase in the allowable annual volatile organic compound ("VOC") emissions rates. The Date Required is the date the permit expired and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,033

Screening Date 1-May-2013

Docket No. 2013-0968-AIR-E

PCW

Respondent W &amp; W Fiberglass Tank Company

Policy Revision 3 (September 2011)

Case ID No. 46852

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102004314

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F) and 122.143(4), Tex. Health & Safety Code § 382.085(b), Federal Operating Permit No. O2448, Special Terms and Conditions No. 4, and NSR Permit No. 47294, Special Conditions No. 1

Violation Description

Failed to comply with the annual allowable VOC emissions rate. Specifically, the Respondent exceeded the allowable annual VOC emissions rate of 43.75 tons per year based on a rolling 12-month period, from November 2010 through May 2012, resulting in the unauthorized release of 0.96 ton of VOC.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 3

243 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the period of non-compliance from October 1, 2011 through May 31, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

x

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$11,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$15,975

This violation Final Assessed Penalty (adjusted for limits) \$15,975

# Economic Benefit Worksheet

Respondent W & W Fiberglass Tank Company

Case ID No. 46852

Reg. Ent. Reference No. RN102004314

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See the Economic Benefit in Violation No. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601098882, RN102004314, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601098882, W & W Fiberglass Tank Company	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	24.38
<b>Regulated Entity:</b>	RN102004314, W&W FIBERGLASS TANK	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	24.38
<b>Complexity Points:</b>	7	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	116 S PRICE RD PAMPA, TX 79065-6913, GRAY COUNTY				
<b>TCEQ Region:</b>	REGION 01 - AMARILLO				

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER GH0099A

**AIR OPERATING PERMITS** PERMIT 2448

**AIR NEW SOURCE PERMITS** AFS NUM 4817900042

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER GH0099A

**AIR NEW SOURCE PERMITS** REGISTRATION 79702

**AIR NEW SOURCE PERMITS** PERMIT 105648

**WATER QUALITY NON PERMITTED** ID NUMBER R01ST0072

**STORMWATER** PERMIT TXR05BJ55

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER GH0099A

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	May 13, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	May 13, 2008 to May 13, 2013				

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Jessica Schildwachter

**Phone:** (512) 239-2617

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , when did the change(s) in owner or operator occur?                              | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

- |   |  |  |
|---|--|--|
| 1 | Effective Date: 02/22/2010   | ADMINORDER 2009-0822-AIR-E (1660 Order-Agreed Order With Denial) |
|   | Classification: Moderate   |  |
|   | Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  |  |
|   | 5C THSC Chapter 382 382.085(b)   |  |
|   | Rqmt Prov: Permit No. 47294 PERMIT   |  |
|   | Description: Exceeded the rolling 12-month volatile organic compound ("VOC") permitted emission limit of 39.44 tons per year |  |
|   | Classification: Moderate   |  |
|   | Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  |  |
|   | 40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.9(h)  |  |
|   | 40 CFR Chapter 63, SubChapter C, PT 63, SubPT WWW 63.5910(b)   |  |
|   | 5C THSC Chapter 382 382.085(b)   |  |

Rqmt Prov: Permit No. 47294 PERMIT

Description: Failed to submit four semi-annual compliance reports on or before the required due date.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to report all instances of deviations on five submitted deviation reports covering the periods of April 21, 2006 through June 30, 2006, July 1, 2006 through November 3, 2006, November 4, 2006 through May 3, 2007, May 4, 2007 through November 3, 2007, and May 4, 2008 through November 3, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.146

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to timely submit a permit compliance certification for the time period of November 4, 2007 through May 3, 2008.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: SC 11A PERMIT

Description: Failed to maintain and have available on file for two years records in order to demonstrate compliance with permit conditions and the maximum allowable emission rates table

2 Effective Date: 11/11/2012 ADMINORDER 2012-1566-WQ-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: Field Citation - Failure to renew facility's MSGP.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1 July 31, 2012 (977093)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 04/23/2013 (1078163) CN601098882  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT WWW 63.5910(b)  
5C THSC Chapter 382 382.085(b)  
Permit No. 47294 SC 4 PERMIT  
Description: Failure to submit 40 CFR 63 Subpart WWW semi-annual compliance reports in a timely manner

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A



**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
W & W FIBERGLASS  
TANK COMPANY  
RN102004314**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2013-0968-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding W & W Fiberglass Tank Company ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a fiberglass tank manufacturing plant at 116 South Price Road in Pampa, Gray County, Texas ("the Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 28, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seventy-Four Thousand Five Hundred Fifty Dollars (\$74,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Nine Thousand Eight

Hundred Twenty Dollars (\$29,820) of the administrative penalty and Fourteen Thousand Nine Hundred Ten Dollars (\$14,910) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twenty-Nine Thousand Eight Hundred Twenty Dollars (\$29,820) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent submitted a New Source Review ("NSR") permit application that will include an increase in the allowable annual volatile organic compound ("VOC") emissions rates for the Plant on August 30, 2012.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit a renewal application for NSR Permit No. 47294 at least six months prior to the expiration date, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on January 22, 2013. Specifically, NSR Permit No. 47294 expired on June 6, 2012 and the Plant continued to operate.
2. Failed to comply with the annual allowable VOC emissions rate, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), Federal Operating Permit No. O2448, Special Terms and Conditions No. 4, and NSR Permit No. 47294, Special Conditions No. 1, as documented during an investigation conducted on January 22, 2013. Specifically, the Respondent exceeded the allowable annual VOC emissions rate of 43.75 tons per year based on a rolling 12-month

period, from November 2010 through May 2012, resulting in the unauthorized release of 0.96 ton of VOC.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: W & W Fiberglass Tank Company, Docket No. 2013-0968-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twenty-Nine Thousand Eight Hundred Twenty Dollars (\$29,820) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, until such time authorization to operate is obtained or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 47294;
  - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application submitted on August 30, 2012, within 30 days after the date of such requests, or by any other deadline specified in writing; and
  - c. Within 180 days after the effective date of this Agreed Order, submit written certification that either authorization to operate the sources of air emissions at the Plant has been obtained or that operation has ceased until such time that

appropriate authorization has been obtained. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1)

enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

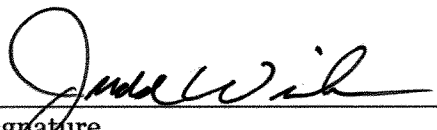
10/31/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

8-19-2013  
Date

Judd Wilson  
Name (Printed or typed)  
Authorized Representative of  
W & W Fiberglass Tank Company

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.



**Attachment A**  
**Docket Number: 2013-0968-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>W &amp; W Fiberglass Tank Company</b>
<b>Penalty Amount:</b>	<b>Fifty-Nine Thousand Six Hundred Forty Dollars (\$59,640)</b>
<b>SEP Amount:</b>	<b>Twenty-Nine Thousand Eight Hundred Twenty Dollars (\$29,820)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D") - Clean School Buses</b>
<b>Location of SEP:</b>	<b>Texas Air Quality Control Region 211 - Amarillo - Lubbock</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

Respondent shall contribute to the Third-Party Administrator pursuant to the agreement between the Third-Party Administrator and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the Third-Party Administrator as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides reduction catalyst technology in combination with diesel

W & W Fiberglass Tank Company  
Agreed Order - Attachment A

particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency ("EPA") or the California Air Resources Board. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which was phased between 2007 and 2010.

c. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Administrator. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues Section  
Attention: Cashier, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

#### **5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

#### **6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.